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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Open Network Architecture Tariffs	)	CC Docket No. 94-128
of US West Communications, Inc.	)	

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: November 4, 1994; Released: November 8, 1994

By the Chief, Common Carrier Bureau:

I. INTRODUCTION AND BACKGROUND

1. In the Part 69 ONA Order, the Commission adopted rules requiring the Bell Operating Companies (BOCs) to implement open network architecture (ONA).[1] The Commission's ONA rules require BOCs providing enhanced services to make regulated basic services available to enhanced service providers on the same basis as they use those basic

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[1] Amendments to Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89-79, Report and Order, Order on Reconsideration, and Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 4524 (1991) (Part 69 ONA Order), modified on recon. 7 FCC Rcd 5235 (1992), further modified on recon. 8 FCC Rcd 3114 (1993). The Bell Operating Companies include the Ameritech Operating Companies, (Ameritech), Bell Atlantic Telephone Companies (Bell Atlantic), BellSouth Telephone Companies (BellSouth), New York Telephone Company and New England Telephone and Telegraph Company (NYNEX), Pacific Bell, Nevada Bell, Southwestern Bell Telephone Company (Southwestern Bell), and US West Communications, Inc. (US West). Later, the Commission extended its ONA rules to GTE Corporation (GTE). Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, CC Docket No. 92-256, 9 FCC Rcd 4922 (1994) (GTE ONA Order).

services in the provision of their own enhanced services.[2] One purpose of requiring implementation of ONA was to unbundle basic services provided by the BOCs to promote the efficient and innovative use of the network by enhanced service providers. Another purpose of implementing ONA was to prevent the BOCs from cross-subsidizing enhanced services with revenues from regulated services or discriminating against independent enhanced service providers in favor of their enhanced service operations. This latter purpose was to be achieved through non-structural safeguards that replaced prior rules, which had required BOCs that offered enhanced services to do so through a separate subsidiary.[3] In its Computer III Inquiry, the Commission had found that structural separation could create inefficiencies in the provision of enhanced services, and that ONA could provide the same measure of protection against anticompetitive behavior without creating such inefficiencies.[4]

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[2] Amendments of Section 64.702 of the Commission's Rules and Regulations, Report and Order, CC Docket No. 85-229, 104 FCC 2d 958, 1063-64 (1986); recon., 2 FCC Rcd 3035 (1987) (Phase I Reconsideration), further recon., 3 FCC Rcd 1135 (1988) (Phase I Further Reconsideration), second further recon., 4 FCC Rcd 5927 (1989) (Phase I Second Further Reconsideration), Amendments of Sections 64.702 of the Commission's Rules and Regulations, Report and Order, CC Docket No. 85-229, 2 FCC Rcd 3072 (1988) (Phase II Order), recon., 3 FCC Rcd 1150 (Phase II Reconsideration), vacated sub nom. California v. FCC, 905 F.2d 1217 (9th Cir. 1990) (Computer III Inquiry). See also GTE ONA Order, 9 FCC Rcd at 4923-24 (para. 2). The Commission's Rules define enhanced services as communications services that employ computer processing applications that act on the "format, content, code, protocol, or similar aspects of the subscriber's transmitted information." Section 64.702(a) of the Commission's Rules, 47 C.F.R. § 64.702(a). Basic services are communications services which are not enhanced.

[3] Part 69 ONA Order, 6 FCC Rcd at 4525 (para. 2).

[4] See Computer III Inquiry, 104 FCC 2d at 1011-12. Finding that the Commission had not adequately justified its conclusion that non-structural accounting safeguards would be adequate to prevent cross-subsidization, the Court of Appeals for the Ninth Circuit remanded the Orders adopting the ONA rules. People of the State of California v. FCC, 905 F.2d 1217 (9th Cir. 1990) (California I). On remand, in November 1991, the Commission adopted stronger accounting safeguards. Computer III Remand Proceedings: Bell Operating Safeguards and Tier I Local Exchange Company Safeguards, CC Docket No. 90-623, 6 FCC Rcd 7571 (1991) (Computer III Remand Order). On review of the Computer III Remand Order, the Court noted that the Commission based its decision to abandon structural safeguards in favor of ONA on a cost-benefit analysis that assumed that ONA would constitute more fundamental unbundling of access services than has turned out to be the case. The Court remanded the Computer III Remand Order to re-examine its cost-benefit analysis. People of the State of California v. FCC, slip. op., No. 92-70083 (Oct. 18, 1994) (California III). Previously, the Court had found that the Commission had adequately justified its change in policy to no longer require fundamental unbundling. People of the State of California v. FCC, 4 F.3d 1505, 1511-13 (9th Cir. 1993) (California II). At issue in this investigation is whether the ONA rates filed by US West are

2. The Part 69 ONA Order required the BOCs to file tariffs to provide ONA services. Specifically, the Commission ordered the BOCs to unbundle optional service offerings from their existing feature group access arrangements.[5] These optional service offerings are known as "basic service elements." Basic service elements were distinguished from essential, underlying switching and transmission services offered by the BOCs, which are called "basic serving arrangements."[6]

3. Implementing ONA requires development of reasonable basic service element rates, which in turn requires some rational means for apportioning joint and common switch investment among basic service elements. In the ONA context, the Common Carrier Bureau (Bureau) concluded that any reasonable method of apportioning switching costs would require development of an investment cost allocation model, which a carrier would use to allocate investment in switches to correspond to its use of the switch to provide each basic service

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consistent with the Commission's ONA policy. The Court has not found the Commission's ONA policy itself to be unreasonable; rather, it held only that the Commission has not yet shown that ONA, without fundamental unbundling, justifies adoption of nonstructural safeguards. We conclude that the Court's remand of the Computer III Remand Order does not directly affect our investigation of US West's ONA rates.

[5] There are four different types of feature group arrangements that interexchange carriers may order from local exchange carriers to gain access to their networks. Feature Group A access provides connections on the line side of the switch. With this service, callers wishing to use an interexchange carrier's service must dial additional telephone numbers and access codes after being connected to the interexchange carrier's switch. The transmission quality associated with this type of access is generally inferior to that associated with other access arrangements. With Feature Group B, the interexchange carrier is connected to the trunk side of the switch and has better transmission quality than Feature Group A offers. However, Feature Group B still requires callers to dial an additional access code after connection to the interexchange carrier's switch to complete their long distance calls. Feature Groups C and D, which are also trunk side connections, have the best available transmission quality and provide for direct connection to the switch without an access code. Callers merely have to dial "1" before dialing a regular ten-digit telephone number. See, e.g., National Exchange Carrier Association Tariff F.C.C. No. 5, §§ 6.5.1, 6.6.1, 6.7.1, 6.8.1.

[6] See Part 69 ONA Order, 6 FCC Rcd at 4526 (para. 8).

element.[7] Therefore, the BOCs used computer models to develop investment data on which to base the unbundled basic service element rates.[8]

4. Specifically, Bell Communications Research, Inc. (Bellcore) and US West have developed several cost models that BOCs use to determine the investment required to produce one unit of a service. These models analyze switching equipment to determine how much investment is required to produce one unit of a particular basic service element. The BOCs then multiply that per unit investment by annual direct cost factors to determine the annual direct costs required to support the investment. Direct costs, which are predominantly capital costs and other plant-specific costs, are closely linked to direct investment. Therefore, the BOCs used their internal company records to develop the direct cost factor, which they applied to per unit investment to determine the amount of direct costs to be recovered from each service.[9] Overhead costs are costs that are not linked to a specific service. BOCs calculate overhead costs to be recovered from a specific service by developing an overhead loading factor and applying it to direct costs.[10]

5. The Bureau allowed the BOCs' ONA tariffs to take effect subject to a one day suspension and an investigation.[11] With respect to all the BOCs except US West, that

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[7] Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, 7 FCC Rcd 521, 523-24 (para. 17) (Com.Car.Bur. 1991) (SCIS In Camera Order); review denied, 8 FCC Rcd 422 (1993).

[8] These computer models rely upon proprietary information provided by switch manufacturers. The Commission therefore concluded that these models were exempt from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4) (FOIA). The Commission's concern was that disclosure might cause switch manufacturers to stop providing this proprietary information, which would make it difficult or impossible to develop the computer models. This, in turn, would adversely affect the Commission's ONA program. Allnet Communications Services, Inc., FOIA Control No. 92-266, 7 FCC Rcd 6329, 6330-31 (paras. 14-17) (1992) (Allnet FOIA Review Order), aff'd. Allnet Communications Services, Inc. v. FCC, 800 F.Supp. 984 (D.D.C. 1992), aff'd. Allnet Communications Services, Inc. v. FCC, No. 92-5351, slip op. (D.C. Cir. May 27, 1994).

[9] See Open Network Architecture Tariffs of Bell Operating Companies, CC Docket No. 92-91, 9 FCC Rcd 440, 456 (paras. 44-45) (1993) (ONA Final Order), recon. pending. By "unit investment" we mean the investment required to produce one unit of the basic service element at issue.

[10] Id.

[11] Ameritech Operating Companies, Revisions to Tariff F.C.C. No. 2, Open Network Architecture, 7 FCC Rcd 257 (Com.Car.Bur. 1991) (Ameritech ONA Tariff Order), modified by Ameritech Operating Companies, 7 FCC Rcd 948 (Com.Car.Bur. 1992); Bell Atlantic

investigation was completed in December 1993.[12] Unlike other BOCs, which used one computer model for all their basic service element rates, US West developed the costs underlying the rates in its first ONA filing from two separate software models that were not consistent with each other.[13] US West relied in part on a computer model it developed, the "Switching Cost Model" (SCM), to determine its basic service element investment costs, and in part on a 1987 version of the model used by the other six BOCs, the "Switching Cost Information System" (SCIS).[14] The absence of a uniform methodology not only created the possibility of inconsistent cost allocations, but was also contrary to the requirements of the Part 69 ONA Order. The Commission therefore required US West to file replacement rates rectifying this and other problems.[15]

6. US West filed the replacement ONA rates under Transmittal No. 446 on January 26, 1994. Although US West relied exclusively on one computer model, a revised version of SCM,[16] it was not clear whether or how these revisions affected the per unit investment figures produced by the model.[17] We therefore suspended Transmittal No. 446 for one day, and initiated an investigation. In this Order, we designate issues in this investigation and address certain procedural issues.

II. DESIGNATION OF ISSUES

7. US West supports its rates in Transmittal No. 446 with two conflicting sets of workpapers that we could not reconcile. One set shows development of the tariffed rates but does not appear to account for significant direct costs; the other includes more direct costs, but does not include common costs and overhead costs in its development of rates for basic service elements. When Bureau staff tried to develop basic service element rates using the direct costs

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Telephone Companies, et al., Open Network Architecture Tariffs, 7 FCC Rcd 1512 (Com.Car.Bur. 1992) (ONA Investigation Order).

[12] See ONA Final Order, 9 FCC Rcd at 440.

[13] ONA Final Order, 9 FCC Rcd at 461-62 (paras. 56-59).

[14] Id. at 461 (para. 56). For a brief description of the SCM "core" model and SCM "feature" model, see infra note 14.

[15] Id. at 463 (paras. 61-63). One additional problem with US West's filing was that some factual materials upon which US West had relied were seriously outdated. Id. at 461-62 (para. 58).

[16] US West Transmittal No. 446, Description and Justification (D&J), at 2-1.

[17] US West Communications, Inc., Open Network Architecture Tariffs, 9 FCC Rcd 2522, 2522 (para. 3) (Com.Car.Bur. 1994) (US West ONA Suspension Order).

in this set of workpapers, we could not reproduce the rates in Transmittal No. 446. Because US West appears to have used two different and inconsistent procedures in its development of its replacement ONA rates, we cannot determine whether those rates are reasonable. Therefore, we direct US West to submit a single, integrated series of workpapers as part of its direct case. In addition, in order to determine whether US West's replacement ONA rates comply with the ONA Final Order, we designate for investigation the three issues listed below. As in the initial ONA investigation, our focus here is on determining whether and the extent to which US West's ONA rates are based on unreasonable and unlawful ratemaking practices.[18]

Issue A. Has US West Corrected the Ratemaking Deficiencies Identified in the ONA Final Order With Respect to Developing Unit Investment Figures?

1. Model office development.

8. The ONA Final Order notes that US West used only central offices from its central region to develop model offices for the "Make Busy Key" and "Message Delivery" basic service elements, rather than including central offices from throughout its service area. The ONA Final Order found that the rates for those basic service elements were unreasonable on that ground, because there was no evidence that such a limited subset of US West's central offices would accurately reflect its actual costs in providing those basic service elements.[19] The cost support provided with Transmittal No. 446 fails to state whether it consistently used all central offices in developing model offices rather than only those in its central region.[20] Accordingly, US West should specify whether all switching offices were used to develop the model office and, if any switching offices were excluded, provide the rationale for their exclusion.

2. Outdated traffic studies, vendor operating software, and vendor data.

9. The ONA Final Order states that US West did not rely on traffic studies recent enough to reflect accurately current traffic patterns.[21] In addition, the Order finds that US West's rates were also unreasonable because they were based on outdated vendor software and associated vendor data, and therefore not adequately based on US West's current costs of providing service.[22] The Transmittal No. 446 cost support states that the SCM "has been updated to include 1993 rate levels and traffic data," but provides no description of traffic

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[18] ONA Final Order, 9 FCC Rcd at 445-46 (para. 11-12).

[19] Id. at 448 (para. 18).

[20] Transmittal No. 446, Description and Justification (D&J) at 2-1 through 2-5.

[21] ONA Final Order, 9 FCC Rcd at 450 (para. 22).

[22] Final Order, 9 FCC Rcd at 461-62 (para. 58).

studies conducted since the outdated studies relied on for the original ONA rates.[23] Similarly, the cost support indicates that SCM now "includes the most current data on switching technology," but fails to specify the date of vendor data or the version of operating software incorporated for the various kinds of switches included within SCM.[24]

10. Accordingly, US West should specify the scope and date of traffic studies relied on by Transmittal No. 446 that supersede older traffic information, as well as the procedure used to conduct the studies. US West should also describe the more recent vendor data and software incorporated within the updated SCM software, itemized for each switch technology. For each deficiency identified in the ONA Final Order that US West asserts it has corrected, US West should show the effect of the correction on the unit investment figures developed using the updated SCM software. US West should also describe the cumulative effect of all corrections US West made in response to the ONA Final Order for each basic service element. Finally, US West should explain its statement in the Transmittal No. 446 Description and Justification that 1993 rate levels have been included in SCM.[25]

Issue B. Is it Possible to Develop Reasonable Rates Using Revised SCM Software?

11. US West asserts that the "core" of its SCM software was reviewed in the original investigation by the independent auditor, Arthur Andersen and Company, and has not been significantly altered since. Therefore, states US West, it need not be further reviewed here.[26] In the US West ONA Suspension Order, the Bureau found US West's assertion to be unpersuasive in light of its revisions to SCM.[27] Furthermore, given the relatively recent

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[23] Transmittal No. 446 D&J at 2-1.

[24] Id.

[25] "USWC exclusively used the SCM model that has been updated to include 1993 rate levels and traffic data." Transmittal No. 446 D&J at 2-1. Presumably, US West used some cost model to develop its 1993 rate levels. It is not clear whether or to what extent US West has manipulated its 1993 rate levels, or what effect those manipulations might have on the unit investment data produced by the revised SCM. Thus, US West's statement raises the concern that its cost model has been somehow modified to reflect predesignated rates.

[26] Letter from Cyndie Eby, US West, to Gregory J. Vogt, Chief, Tariff Division, Apr. 11, 1994. SCM is a two part model. The first part of SCM is the "core" model, which calculates unit investment associated with the common parts of the switch, i.e., investment not attributable to any one specific feature or function. Those results are then input into the second part of SCM, the "features" model, which develops the additional investment required to support specific features and calculates unit investment that includes both common and feature-specific investment.

[27] US West ONA Suspension Order, 9 FCC Rcd at 2522 (para. 3).

submission of documentation for the updated SCM model, we have not conducted significant in camera review of the model,[28] as we did in the earlier model in the previous ONA investigation. Therefore, it is not clear that SCM, as revised, can be made to produce reasonable unit investment data on which reasonable ONA rates can be based.

12. We can determine whether the updates to SCM have significant effects on unit investment, and thus on ONA rates, in one of two ways. First, we can compare the updated SCM software and documentation with the original version by a second, full-scale audit. Alternatively, we can run the same set of data through both models, each set to incorporate the same model assumptions,[29] and identify any differences on unit investment outputs. We have decided as an initial matter to require US West to conduct such comparative investment studies. Specifically, we direct US West to show the effect of any SCM software revisions on unit investments, and to demonstrate the reasonableness of the revisions. Second, the equations within the SCM model include variables that enable US West to adjust the model to fit assumptions it makes concerning its network. US West must quantify the effects of changes in any such assumptions not specified in the original ONA Designation Order on SCM unit investments. US West should demonstrate, by giving examples, what effect changes in these factors have upon unit investment studies. Finally, US West must show all sources of rate variation between the originally filed rates and those filed under Transmittal No. 446, and isolate rate differences attributable to SCM software changes from those arising from other sources.

13. As explained below, we also require US West to hire an independent auditor to review the revised SCM model. We hereby direct that auditor to review US West's comparison of old and new SCM. After reviewing US West's comparisons and the results of the independent auditor's review of that comparison, we will examine US West's contentions that the initial auditor's review should suffice for this proceeding. Also, if necessary, we will designate additional issues for investigation concerning the operation of the model itself.

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[28] In the first ONA investigation, we required Ameritech to submit its SCIS model, so that we could examine it in camera. The requirement was later expanded to include all the BOCs' models. Through this examination, we were able to determine the extent to which the SCIS model is proprietary and therefore exempt from mandatory public disclosure under FOIA. We were also able to identify some of the most significant ways that the model can be adjusted to reflect different assumptions BOCs can make regarding their networks. SCIS In Camera Order, 7 FCC Rcd at 524 (para. 18).

[29] The equations within the SCM model include variables that enable US West to adjust the model to fit assumptions it makes concerning its network. Many of these assumptions are similar to the assumptions one can make using SCIS, such as average investment or marginal investment, cost of money, or switch exhaustion. For a more detailed discussion of these assumptions, see ONA Investigation Order, 7 FCC Rcd at 1514-15 (paras. 10-16).

Issue C. Has US West Complied with the Instructions of the ONA Final Order with Respect to Including Analog Switching Equipment in its Switch Technology Mix?

1. Inclusion of Analog Switch Equipment.

14. Each basic service element rate is based on a weighted average of the costs of providing the service through use of different kinds of switches in the BOC's network.[30] An important issue in the first ONA investigation was whether it was reasonable to include the costs of analog switches in this weighted average.[31] Analog switches are based on much older technology than digital switches, and in many cases, use of analog switches results in higher basic service element costs than use of digital switches would impose.[32] The Commission concluded that basic service element rates are reasonable only to the extent that they are based on a future, or prospective, mix of switching technologies. The Commission's rationale was that these are the costs that would be considered by a company in a competitive market when deciding whether to introduce a new service.[33] The Commission therefore prescribed use of prospective switch investment to set rates.[34] It allowed analog switch investment to be included as part of the carrier's switch technology mix only to the extent those switches will be in service in the future, and required carriers to explain the basis for including that equipment.[35]

15. The cost support in Transmittal No. 446 estimates the expected useful lives of US West's analog equipment, and states that these lives reflect the results of studies sponsored by the United States Telephone Association. US West, however, does not include analog switches in the SCM "core" component. It is therefore unclear whether US West includes analog switches in the mix of switches used to support basic service elements. Accordingly, we direct US West to describe any analog equipment included in its mix of switches used to develop its model for ratemaking purposes. If analog equipment is included, then US West must explain the procedure it used to develop analog unit investment data for basic service elements, and justify its inclusion of analog technology in the forward-looking mix of switch technologies.

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[30] ONA Investigation Order, 7 FCC Rcd at 1515 (paras. 17-18).

[31] Open Network Architecture Tariffs of Bell Operating Companies, Order Terminating Investigation, CC Docket No. 92-91, 7 FCC Rcd 2604, 2605 (Com.Car.Bur. 1992) (ONA Designation Order).

[32] For example, Pacific Bell claimed that the costs of providing a particular basic service element varied from $15.30 to $4,588.00. ONA Investigation Order, 7 FCC Rcd at 1515 (para. 17).

[33] ONA Final Order, 9 FCC Rcd at 455 (para. 40).

[34] Id. at 456 (para. 41).

[35] ONA Final Order, 9 FCC Rcd at 456 (para. 41-43).

2. Excessive Direct Costs and Overhead Costs.

16. In the ONA Final Order, the Commission found that US West, among other BOCs, had not adequately justified the direct costs and overhead costs on which it based its ONA rates.[36] The Commission therefore required US West to explain how it calculated its direct costs and overhead costs. The Commission also stated that it would resort to calculating an upper limit for these costs based on Automated Reporting Management and Information System (ARMIS) data if US West failed to provide adequate explanations.[37]

17. Rather than develop its own cost support mechanism for "loading" administrative costs onto direct costs associated with basic service elements, US West used the direct costs and overhead loadings from ARMIS that the ONA Final Order set forth as the Commission's default approach for ONA. In the ONA Final Order, the Commission did not, however, conclude that ARMIS-based direct cost and overhead factors were reasonable in all cases; it found merely that ARMIS figures could be used to establish reasonable upper limits in the absence of reliable carrier-provided data. There is nothing in the ONA Final Order that could be read to relieve US West of its obligation to develop adequate cost support. Accordingly, we require US West to either justify in detail its reliance on this approach, or use traditional cost methods to calculate direct costs. We also require US West to provide an explanation for any direct costs that exceed the ARMIS-based upper limit.

III. PROCEDURAL MATTERS

A. Proprietary Materials and Confidentiality Procedures

18. This investigation, like the original ONA investigation, requires the Commission to examine substantial proprietary cost support materials. In the original ONA investigation, the Commission adopted special procedures which were adequate to protect proprietary material without unreasonably restricting intervenors' participation.[38] Because in this investigation we must also balance the need to protect proprietary material with the need for intervenors to participate effectively, we adopt similar special procedures here. Specifically, we require that US West designate an independent auditing firm to review these materials, and we require US

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[36] ONA Final Order, 9 FCC Rcd at 458 (paras. 49-50).

[37] Id. at 458 (para. 50). ARMIS is a database containing detailed investment and expense information reported by LECs on a regular basis.

[38] Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, 9 FCC Rcd 180, 181 (para. 7) (1993) (SCIS Disclosure Review Order).

West to develop a redacted model that intervenors may examine pursuant to a nondisclosure agreement.[39]

19. As in the initial ONA investigation, the auditor will be subject to close supervision by Bureau staff. We direct US West to advise the Commission in writing, no later than ten days from the release date of this Order, of the name of the independent auditing firm it designates. The auditing firm must present, within ten days of its name being submitted to the Commission, a proposal for staff review that includes a schedule for: (1) determining, on an in camera basis and subject to supervision by Commission staff, all the ways US West can manipulate the updated SCM software to reflect assumptions US West can make regarding its network, as well as differences between the ONA rates originally submitted by US West and those submitted in Transmittal No. 446; (2) determining whether US West complied with directions in the ONA Final Order to correct its ratemaking methodologies; and (3) comparing unit investment figures generated by SCM and SCIS for basic service elements specified by Commission staff.

20. Based on these determinations, the auditing firm should describe in its report the effects on unit investments of changes in assumptions made within the updated SCM model. The report should also describe whether, and to what extent, it relies on the original Arthur Andersen review of the SCM model, and justify that reliance with particularity. US West must also develop and propose procedures for intervenor access to a redacted SCM model, i.e., a version of SCM with proprietary information removed or undisclosed, which can be made available to intervenors pursuant to a nondisclosure agreement. We expect that this redacted SCM will at minimum enable intervenors to examine the effects on SCM outputs of changes in SCM inputs

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[39] In the ONA Final Order, the Commission stated that carriers should not routinely support proposed rates with proprietary models or data. The Commission also determined that carriers relying on such material "bear a substantial, initial burden of demonstrating the circumstances that preclude reliance on publicly available data." ONA Final Order, 4 FCC Rcd at 469 n.163. See also SCIS Disclosure Review Order, 9 FCC Rcd at 181 n.17. Similarly, the Bureau has explained that it prefers cost support to be non-proprietary, so that the Commission can benefit from interested parties' knowledge and experience, which might not be available to the Commission otherwise. 800 Data Base Access Tariffs and the 800 Service Management System Tariff, CC Docket No. 93-129, 9 FCC Rcd 715, 718 (para. 11) (Com.Car.Bur. 1994). Nevertheless, as noted above, the Bureau has concluded that any reasonable method of apportioning switching costs for developing ONA rates would require development of an investment cost allocation model based on information proprietary to switch manufacturers. Paragraph 3, supra, citing SCIS In Camera Order, 7 FCC Rcd at 523-24 (para. 17); Allnet FOIA Review Order, 7 FCC Rcd at 6330-31 (paras. 14-17). Furthermore, the Commission in the ONA Final Order directed US West to develop revised ONA rates using a single cost model. ONA Final Order, 9 FCC Rcd at 463 (para. 63). Under these circumstances, we have determined that US West has adequately justified using a proprietary cost model for the rates subject to this investigation.

to the same extent as was possible with SCIS Redaction II, used in the first ONA investigation.[40] We also expect that the nondisclosure agreement will be no more restrictive on intervenors than the agreement governing intervenors' examination of SCIS Redaction II.

21. We also require US West to make the justification for tariff rates available to the public to the maximum extent possible. If US West relies on proprietary materials in its direct case, therefore, it should segregate those materials and submit them to the Commission with a request for confidential treatment pursuant to Section 0.459 of the Commission's Rules, 47 C.F.R. § 0.459. US West should justify such requests by giving reasons for confidential treatment as required by the Commission's Rules. To the extent that US West deems it necessary to protect confidential vendor information, it may demonstrate the effect on unit investments of corrections required by the ONA Final Order for each switch type US West uses under request for confidential treatment. However, US West should disclose on the public record the weighted average of the effects of these corrections.

B. Filing Schedules

22. This investigation will be conducted as a notice and comment proceeding. We designate US West as a party to this investigation. To give the independent auditor sufficient time to review US West's response to Issue B, we require US West to file its direct case no later than 120 days after the release date of this Order. In its direct case, US West must respond to all the issues designated above. Moreover, the initial direct case must supply all information upon which US West relies to support its position. We also require US West to make redacted SCM available to intervenors within 120 days of the release date of this Order, and we require the independent auditor to complete its report on its examination of revised SCM by that time.

23. Parties to the original investigation should advise the Commission in writing, no later than two weeks from the release date of this Order, whether they intend to participate in the investigation of Transmittal No. 446. Pleadings responsive to the initial direct case may be filed no later than 30 days after the direct case is filed, and must be captioned "Opposition to Direct Case" or "Comments on Direct Case." Pleadings may be submitted only by intervenors. US West may file a "Rebuttal" to oppositions or comments no later than 15 days after oppositions are filed.

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[40] The SCIS Disclosure Order required BOCs to make a redacted version of SCIS available to intervenors in the first ONA investigation. SCIS Disclosure Order, 7 FCC Rcd at 1536 (para. 55). Because some intervenors claimed that the first redacted SCIS model that Bellcore provided was so deeply redacted as to be deficient, the Bureau informally encouraged Bellcore and switch manufacturers to develop a second redacted SCIS model. See Commission Requirements for Cost Support Material to be Filed with Open Network Architecture Tariffs, 7 FCC Rcd 5307, 5307 (para. 3); ONA Final Order, 9 FCC Rcd at 468 n.149. The Commission referred to this second model as "SCIS Redaction II."

24. An original and seven copies of all pleadings must be filed with the Secretary of the Commission. In addition, one copy must be delivered to the Commission's commercial copying firm, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Also, one copy shall be delivered to the Tariff Division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Such comments should specify the docket number of this investigation.

25. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information is in writing and is placed in the public file or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of reliance on such information is noted in the Order.

C. Ex Parte Requirements

26. Ex parte contacts (i.e., written or oral communications which address the procedural or substantive merits of the proceeding which are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until a final Order is released and after the final Order itself is issued. Written ex parte contacts must be filed on the day submitted with the Secretary and Commission employees receiving each presentation. For other requirements, see generally Section 1.1200 et seq. of the Commission's Rules, 47 C.F.R. §§ 1.1200 et seq.

D. Paperwork Reduction Act

27. The investigation established in this Order has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, or recordkeeping, labeling, disclosure or other record retention requirements as contemplated under the statute. See 44 U.S.C. § 3502(4)(A).

IV. ORDERING CLAUSES

28. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403, that the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

29. IT IS FURTHER ORDERED that US West Communications, Inc. SHALL BE a party to this proceeding.

30. IT IS FURTHER ORDERED that US West Communications, Inc. SHALL INCLUDE a response to each item of information requested in this Order.

31. IT IS FURTHER ORDERED that this Order shall become effective on the date of its adoption.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen M.H. Wallman
Chief, Common Carrier Bureau